D.B. Civil Writ Petition No. 4953/2007
(M/s. R.A. Gattani & Company Versus Union of India & Another)

Date of Order :: 16th July, 2007

PRESENT

Hon'ble Mr. Justice R.M. Lodha
Hon'ble Mr. Justice Mohammad Rafiq

Mr. P.K. Kasliwal for the petitioner

The petitioner seeks to challenge the show cause notice dated 15.5.2007 issued by the Assistant Commissioner, Central Excise Division-I, Jaipur calling upon the petitioner to show cause as to why the service tax amounting to Rs. 4,95,960/- (including education cess) and an interest in the sum of Rs. 1,75,138/- on the due service tax upto 31.3.2007 and onwards should not be recovered and as to why penalty should not be imposed under Sections 76, 77 and 78 for contravention of Section 68 and suppression of the value of taxable service with intent to evade payment of service tax.

2. In response thereto the petitioner has responded to the said notice on 4.6.2007 and diverse objections in respect of the said notice have been raised.

3. Without awaiting for the decision of the Assistant Commissioner, Central Excise, the present writ petition has been filed.

4. It goes without saying that before proceeding with the assessment pursuant to the notice dated 15.5.2007, the objection of the petitioner that he does not fall under the category of “Business Auxiliary Service” and all other objections relating thereto shall be decided. Needless to say that if the petitioner is aggrieved by the assessment order of the Assistant Commissioner, Central Excise Division-I, Jaipur, the petitioner shall be free to challenge the same in appropriate proceedings in accordance with law.

5. With the aforesaid observation, writ petition is disposed of.

Mohammad Rafiq, J. R.M.Lodha,J.